

104TH CONGRESS
1ST SESSION

H. R. 1629

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1995

Mr. SANDERS (for himself, Ms. NORTON, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Come Home, Corporate America, Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Elimination of credit for foreign taxes and allowance of deduction for such taxes.

- Sec. 3. Use of formulaic approach under section 482.
- Sec. 4. Disposition of stock in domestic corporations by 10-percent foreign shareholders.
- Sec. 5. Portfolio debt.
- Sec. 6. Termination of exclusion of certain income of citizens or residents of United States living abroad.
- Sec. 7. Elimination of exclusion of certain income of foreign sales corporations.
- Sec. 8. Repeal of deferral of income of controlled foreign corporations.
- Sec. 9. Extension of statute of limitations for certain foreign-related deficiencies.
- Sec. 10. Reduction of outstanding loan, guarantee, and insurance authority of the Export-Import Bank of the United States.
- Sec. 11. Abolition of Overseas Private Investment Corporation.

1 **SEC. 2. ELIMINATION OF CREDIT FOR FOREIGN TAXES AND**
 2 **ALLOWANCE OF DEDUCTION FOR SUCH**
 3 **TAXES.**

4 (a) IN GENERAL.—Section 901 of the Internal Reve-
 5 nue Code of 1986 (relating to taxes of foreign countries
 6 and of possessions of the United States) is amended by
 7 redesignating subsection (k) as subsection (l) and by in-
 8 serting after subsection (j) the following new subsection:

9 “(k) TERMINATION OF FOREIGN TAX CREDIT.—

10 “(1) IN GENERAL.—No credit shall be allowed
 11 under subsection (a) for any income, war profits, or
 12 excess profits taxes paid or accrued (or deemed paid
 13 under section 902 or 960) for any taxable year be-
 14 ginning after the date of the enactment of this sub-
 15 section.

16 “(2) TAXES ALLOWED AS DEDUCTION.—Section
 17 275(a)(4) shall not apply to any tax for which credit
 18 is not allowable by reason of this subsection.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 3. USE OF FORMULAIC APPROACH UNDER SECTION**
5 **482.**

6 Not later than January 1, 1996, the Secretary of the
7 Treasury or his delegate shall prescribe regulations under
8 section 482 of the Internal Revenue Code of 1986 which
9 use a formulaic approach to clearly reflect income of mul-
10 tinationaional corporations.

11 **SEC. 4. DISPOSITION OF STOCK IN DOMESTIC CORPORA-**
12 **TIONS BY 10-PERCENT FOREIGN SHAREHOLD-**
13 **ERS.**

14 (a) GENERAL RULE.—Subpart D of part II of sub-
15 chapter N of chapter 1 of the Internal Revenue Code of
16 1986 (relating to miscellaneous provisions) is amended by
17 adding at the end the following new section:

18 **“SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORA-**
19 **TIONS BY 10-PERCENT FOREIGN SHAREHOLD-**
20 **ERS.**

21 “(a) GENERAL RULE.—

22 “(1) TREATMENT AS EFFECTIVELY CONNECTED
23 WITH UNITED STATES TRADE OR BUSINESS.—For
24 purposes of this title, if any nonresident alien indi-
25 vidual or foreign corporation is a 10-percent share-

1 holder in any domestic corporation, any gain or loss
2 of such individual or foreign corporation from the
3 disposition of any stock in such domestic corporation
4 shall be taken into account—

5 “(A) in the case of a nonresident alien in-
6 dividual, under section 871(b)(1), or

7 “(B) in the case of a foreign corporation,
8 under section 882(a)(1),

9 as if the taxpayer were engaged during the taxable
10 year in a trade or business within the United States
11 through a permanent establishment in the United
12 States and as if such gain or loss were effectively
13 connected with such trade or business and attrib-
14 utable to such permanent establishment. Notwith-
15 standing section 865, any such gain or loss shall be
16 treated as from sources in the United States.

17 “(2) 26-PERCENT MINIMUM TAX ON NON-
18 RESIDENT ALIEN INDIVIDUALS.—

19 “(A) IN GENERAL.—In the case of any
20 nonresident alien individual, the amount deter-
21 mined under section 55(b)(1)(A) shall not be
22 less than 26 percent of the lesser of—

23 “(i) the individual’s alternative mini-
24 mum taxable income (as defined in section
25 55(b)(2)) for the taxable year, or

1 “(ii) the individual’s net taxable stock
2 gain for the taxable year.

3 “(B) NET TAXABLE STOCK GAIN.—For
4 purposes of subparagraph (A), the term ‘net
5 taxable stock gain’ means the excess of—

6 “(i) the aggregate gains for the tax-
7 able year from dispositions of stock in do-
8 mestic corporations with respect to which
9 such individual is a 10-percent share-
10 holder, over

11 “(ii) the aggregate of the losses for
12 the taxable year from dispositions of such
13 stock.

14 “(C) COORDINATION WITH SECTION
15 897(a)(2).—Section 897(a)(2)(A) shall not apply
16 to any nonresident alien individual for any tax-
17 able year for which such individual has a net
18 taxable stock gain, but the amount of such net
19 taxable stock gain shall be increased by the
20 amount of such individual’s net United States
21 real property gain (as defined in section
22 897(a)(2)(B)) for such taxable year.

23 “(b) 10-PERCENT SHAREHOLDER.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘10-percent shareholder’ means any
3 person who at any time during the shorter of—

4 “(A) the period beginning on January 1,
5 1995, and ending on the date of the disposition,
6 or

7 “(B) the 5-year period ending on the date
8 of the disposition,
9 owned 10 percent or more (by vote or value) of the
10 stock in the domestic corporation.

11 “(2) CONSTRUCTIVE OWNERSHIP.—

12 “(A) IN GENERAL.—Section 318(a) (relat-
13 ing to constructive ownership of stock) shall
14 apply for purposes of paragraph (1).

15 “(B) MODIFICATIONS.—For purposes of
16 subparagraph (A)—

17 “(i) paragraph (2)(C) of section
18 318(a) shall be applied by substituting ‘10
19 percent’ for ‘50 percent’, and

20 “(ii) paragraph (3)(C) of section
21 318(a) shall be applied—

22 “(I) by substituting ‘10 percent’
23 for ‘50 percent’, and

24 “(II) in any case where such
25 paragraph would not apply but for

1 subclause (I), by considering a cor-
2 poration as owning the stock (other
3 than stock in such corporation) owned
4 by or for any shareholder of such cor-
5 poration in that proportion which the
6 value of the stock which such share-
7 holder owns in such corporation bears
8 to the value of all stock in such cor-
9 poration.

10 “(3) TREATMENT OF STOCK HELD BY CERTAIN
11 PARTNERSHIPS.—

12 “(A) IN GENERAL.—For purposes of this
13 section, if—

14 “(i) a partnership is a 10-percent
15 shareholder in any domestic corporation,
16 and

17 “(ii) 10 percent or more of the capital
18 or profits interests in such partnership is
19 held (directly or indirectly) by nonresident
20 alien individuals or foreign corporations,
21 each partner in such partnership who is not
22 otherwise a 10-percent shareholder in such cor-
23 poration shall, with respect to the stock in such
24 corporation held by the partnership, be treated

1 as a 10-percent shareholder in such corpora-
2 tion.

3 “(B) EXCEPTION.—

4 “(i) IN GENERAL.—Subparagraph (A)
5 shall not apply with respect to stock in a
6 domestic corporation held by any partner-
7 ship if, at all times during the 5-year pe-
8 riod ending on the date of the disposition
9 involved—

10 “(I) the aggregate bases of the
11 stock and securities in such domestic
12 corporation held by such partnership
13 were less than 25 percent of the part-
14 nership’s net adjusted asset cost, and

15 “(II) the partnership did not own
16 50 percent or more (by vote or value)
17 of the stock in such domestic corpora-
18 tion.

19 The Secretary may by regulations dis-
20 regard any failure to meet the require-
21 ments of subclause (I) where the partner-
22 ship normally met such requirements dur-
23 ing such 5-year period.

1 “(ii) NET ADJUSTED ASSET COST.—

2 For purposes of clause (i), the term ‘net
3 adjusted asset cost’ means—

4 “(I) the aggregate bases of all of
5 the assets of the partnership other
6 than cash and cash items, reduced by

7 “(II) the portion of the liabilities
8 of the partnership not allocable (on a
9 proportionate basis) to assets excluded
10 under subclause (I).

11 “(C) EXCEPTION NOT TO APPLY TO 50-
12 PERCENT PARTNERS.—Subparagraph (B) shall
13 not apply in the case of any partner owning (di-
14 rectly or indirectly) more than 50 percent of the
15 capital or profits interests in the partnership at
16 any time during the 5-year period ending on the
17 date of the disposition.

18 “(D) SPECIAL RULES.—For purposes of
19 subparagraphs (B) and (C)—

20 “(i) TREATMENT OF PREDE-
21 CESSORS.—Any reference to a partnership
22 or corporation shall be treated as including
23 a reference to any predecessor thereof.

24 “(ii) PARTNERSHIP NOT IN EXIST-
25 ENCE.—If any partnership was not in ex-

1 istence throughout the entire 5-year period
2 ending on the date of the disposition, only
3 the portion of such period during which
4 the partnership (or any predecessor) was
5 in existence shall be taken into account.

6 “(E) OTHER PASS-THRU ENTITIES;
7 TIERED ENTITIES.—Rules similar to the rules
8 of the preceding provisions of this paragraph
9 shall also apply in the case of any pass-thru en-
10 tity other than a partnership and in the case of
11 tiered partnerships and other entities.

12 “(c) COORDINATION WITH NONRECOGNITION PROVI-
13 SIONS; ETC.—

14 “(1) COORDINATION WITH NONRECOGNITION
15 PROVISIONS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), any nonrecognition provision
18 shall apply for purposes of this section to a
19 transaction only in the case of—

20 “(i) an exchange of stock in a domes-
21 tic corporation for other property the sale
22 of which would be subject to taxation
23 under this chapter, or

24 “(ii) a distribution with respect to
25 which gain or loss would not be recognized

1 under section 336 if the sale of the distrib-
2 uted property by the distributee would be
3 subject to tax under this chapter.

4 “(B) REGULATIONS.—The Secretary shall
5 prescribe regulations (which are necessary or
6 appropriate to prevent the avoidance of Federal
7 income taxes) providing—

8 “(i) the extent to which nonrecogni-
9 tion provisions shall, and shall not, apply
10 for purposes of this section, and

11 “(ii) the extent to which—

12 “(I) transfers of property in a re-
13 organization, and

14 “(II) changes in interests in, or
15 distributions from, a partnership,
16 trust, or estate,

17 shall be treated as sales of property at fair
18 market value.

19 “(C) NONRECOGNITION PROVISION.—For
20 purposes of this paragraph, the term ‘non-
21 recognition provision’ means any provision of
22 this title for not recognizing gain or loss.

23 “(2) CERTAIN OTHER RULES MADE APPLICA-
24 BLE.—For purposes of this section, rules similar to

1 the rules of subsections (g) and (j) of section 897
2 shall apply.

3 “(d) CERTAIN INTEREST TREATED AS STOCK.—For
4 purposes of this section—

5 “(1) any option or other right to acquire stock
6 in a domestic corporation,

7 “(2) the conversion feature of any debt instru-
8 ment issued by a domestic corporation, and

9 “(3) to the extent provided in regulations, any
10 other interest in a domestic corporation other than
11 an interest solely as creditor,
12 shall be treated as stock in such corporation.

13 “(e) TREATMENT OF CERTAIN GAIN AS A DIVI-
14 DEND.—In the case of any gain which would be subject
15 to tax by reason of this section but for a treaty and which
16 results from any distribution in liquidation or redemption,
17 for purposes of this subtitle, such gain shall be treated
18 as a dividend to the extent of the earnings and profits
19 of the domestic corporation attributable to the stock.
20 Rules similar to the rules of section 1248(c) (determined
21 without regard to paragraph (2)(D) thereof) shall apply
22 for purposes of the preceding sentence.

23 “(f) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be appropriate to carry out the
25 purposes of this section, including—

1 “(1) regulations coordinating the provisions of
2 this section with the provisions of section 897, and

3 “(2) regulations aggregating stock held by a
4 group of persons acting together.”

5 (b) WITHHOLDING OF TAX.—Subchapter A of chap-
6 ter 3 of such Code is amended by adding at the end the
7 following new section:

8 **“SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK**
9 **DISPOSITIONS.**

10 “(a) GENERAL RULE.—Except as otherwise provided
11 in this section, in the case of any disposition of stock in
12 a domestic corporation by a foreign person who is a 10-
13 percent shareholder in such corporation, the withholding
14 agent shall deduct and withhold a tax equal to 10 percent
15 of the amount realized on the disposition.

16 “(b) EXCEPTIONS.—

17 “(1) STOCK WHICH IS NOT REGULARLY TRAD-
18 ED.—In the case of a disposition of stock which is
19 not regularly traded, a withholding agent shall not
20 be required to deduct and withhold any amount
21 under subsection (a) if—

22 “(A) the transferor furnishes to such with-
23 holding agent an affidavit by such transferor
24 stating, under penalty of perjury, that section

1 899 does not apply to such disposition be-
2 cause—

3 “(i) the transferor is not a foreign
4 person, or

5 “(ii) the transferor is not a 10-percent
6 shareholder, and

7 “(B) such withholding agent does not
8 know (or have reason to know) that such affida-
9 vit is not correct.

10 “(2) STOCK WHICH IS REGULARLY TRADED.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), a withholding agent shall
13 not be required to deduct and withhold any
14 amount under subsection (a) with respect to
15 any disposition of regularly traded stock if such
16 withholding agent does not know (or have rea-
17 son to know) that section 899 applies to such
18 disposition.

19 “(B) SPECIAL RULE WHERE SUBSTANTIAL
20 DISPOSITION.—If—

21 “(i) there is a disposition of regularly
22 traded stock in a corporation, and

23 “(ii) the amount of stock involved in
24 such disposition constitutes 1 percent or

1 more (by vote or value) of the stock in
2 such corporation,
3 subparagraph (A) shall not apply but para-
4 graph (1) shall apply as if the disposition in-
5 volved stock which was not regularly traded.

6 “(C) NOTIFICATION BY FOREIGN PER-
7 SON.—If section 899 applies to any disposition
8 by a foreign person of regularly traded stock,
9 such foreign person shall notify the withholding
10 agent that section 899 applies to such disposi-
11 tion.

12 “(3) NONRECOGNITION TRANSACTIONS.—A
13 withholding agent shall not be required to deduct
14 and withhold any amount under subsection (a) in
15 any case where gain or loss is not recognized by rea-
16 son of section 899(c) (or the regulations prescribed
17 under such section).

18 “(c) SPECIAL RULE WHERE NO WITHHOLDING.—
19 If—

20 “(1) there is no amount deducted and withheld
21 under this section with respect to any disposition to
22 which section 899 applies, and

23 “(2) the foreign person does not pay the tax
24 imposed by this subtitle to the extent attributable to
25 such disposition on the date prescribed therefor,

1 for purposes of determining the amount of such tax, the
2 foreign person's basis in the stock disposed of shall be
3 treated as zero or such other amount as the Secretary may
4 determine (and, for purposes of section 6501, the
5 underpayment of such tax shall be treated as due to a
6 willful attempt to evade such tax).

7 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) WITHHOLDING AGENT.—The term ‘with-
10 holding agent’ means—

11 “(A) the last United States person to have
12 the control, receipt, custody, disposal, or pay-
13 ment of the amount realized on the disposition,
14 or

15 “(B) if there is no such United States per-
16 son, the person prescribed in regulations.

17 “(2) FOREIGN PERSON.—The term ‘foreign per-
18 son’ means any person other than a United States
19 person.

20 “(3) REGULARLY TRADED STOCK.—The term
21 ‘regularly traded stock’ means any stock of a class
22 which is regularly traded on an established securities
23 market.

24 “(4) AUTHORITY TO PRESCRIBE REDUCED
25 AMOUNT.—At the request of the person making the

1 disposition or the withholding agent, the Secretary
2 may prescribe a reduced amount to be withheld
3 under this section if the Secretary determines that
4 to substitute such reduced amount will not jeopard-
5 ize the collection of the tax imposed by section
6 871(b)(1) or 882(a)(1).

7 “(5) OTHER TERMS.—Except as provided in
8 this section, terms used in this section shall have the
9 same respective meanings as when used in section
10 899.

11 “(6) CERTAIN RULES MADE APPLICABLE.—
12 Rules similar to the rules of section 1445(e) shall
13 apply for purposes of this section.

14 “(e) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be appropriate to carry out the
16 purposes of this section, including regulations coordinat-
17 ing the provisions of this section with the provisions of
18 sections 1445 and 1446.”

19 (c) EXCEPTION FROM BRANCH PROFITS TAX.—Sub-
20 paragraph (C) of section 884(d)(2) of such Code is amend-
21 ed to read as follows:

22 “(C) gain treated as effectively connected
23 with the conduct of a trade or business within
24 the United States under—

1 “(i) section 897 in the case of the dis-
2 position of a United States real property
3 interest described in section
4 897(c)(1)(A)(ii), or
5 “(ii) section 899.”

6 (d) REPORTS WITH RESPECT TO CERTAIN DIS-
7 TRIBUTIONS.—Paragraph (2) of section 6038B(a) of such
8 Code (relating to notice of certain transfers to foreign per-
9 son) is amended by striking “section 336” and inserting
10 “section 302, 331, or 336”.

11 (e) CLERICAL AMENDMENTS.—

12 (1) The table of sections for subpart D of part
13 II of subchapter N of chapter 1 of such Code is
14 amended by adding at the end the following new
15 item:

“Sec. 899. Dispositions of stock in domestic corporations by 10-
percent foreign shareholders.”

16 (2) The table of sections for subchapter A of
17 chapter 3 of such Code is amended by adding at the
18 end the following new item:

“Sec. 1447. Withholding of tax on certain stock dispositions.”

19 (f) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to dispositions after December 31,
21 1995, except that section 1447 of such Code (as added
22 by this section) shall not apply to any disposition before
23 July 1, 1996.

1 **SEC. 5. PORTFOLIO DEBT.**

2 (a) IN GENERAL.—Section 871(h)(3) of the Internal
3 Revenue Code of 1986 (relating to tax on nonresident
4 alien individuals) is amended to read as follows:

5 “(3) PORTFOLIO INTEREST TO INCLUDE ONLY
6 INTEREST ON GOVERNMENT OBLIGATIONS.—The
7 term ‘portfolio interest’ shall include only interest
8 paid on an obligation issued by a governmental en-
9 tity.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 881(c)(3) of such Code is amend-
12 ed—

13 (A) in subparagraph (A), by adding “or”
14 at the end, and

15 (B) by striking subparagraph (B) and re-
16 designating subparagraph (C) as subparagraph
17 (B).

18 (2) Section 881(c)(4) of such Code is amend-
19 ed—

20 (A) by striking “section 871(h)(4)” and in-
21 serting “section 871(h)(3) or (4)”, and

22 (B) in the heading, by striking “CONTIN-
23 GENT”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to interest received after December

1 31, 1995, with respect to obligations issued after such
2 date.

3 **SEC. 6. TERMINATION OF EXCLUSION OF CERTAIN INCOME**
4 **OF CITIZENS OR RESIDENTS OF UNITED**
5 **STATES LIVING ABROAD.**

6 (a) IN GENERAL.—Section 911 of the Internal Reve-
7 nue Code of 1986 (relating to citizens or residents of the
8 United States living abroad) is amended by redesignating
9 subsection (f) as subsection (g) and by inserting after sub-
10 section (e) the following new subsection:

11 “(f) TERMINATION.—This section shall not apply to
12 any taxable year beginning after December 31, 1995.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 1995.

16 **SEC. 7. ELIMINATION OF EXCLUSION OF CERTAIN INCOME**
17 **OF FOREIGN SALES CORPORATIONS.**

18 (a) IN GENERAL.—Section 921 of the Internal Reve-
19 nue Code of 1986 (relating to exempt foreign trade income
20 excluded from gross income) is amended by adding at the
21 end the following new subsection:

22 “(e) TERMINATION.—This section shall not apply to
23 any taxable year beginning after December 31, 1995.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 8. REPEAL OF DEFERRAL OF INCOME OF CON-**
5 **TROLLED FOREIGN CORPORATIONS.**

6 (a) GENERAL RULE.—Subpart F of part III of sub-
7 chapter N of chapter 1 of the Internal Revenue Code of
8 1986 is amended by striking sections 952, 953, and 954
9 and inserting the following new sections:

10 **“SEC. 952. SUBPART F INCOME.**

11 “(a) GENERAL RULE.—For purposes of this subpart,
12 the term ‘subpart F income’ means the earnings and prof-
13 its of the controlled foreign corporation for the taxable
14 year computed with the following adjustments:

15 “(1) There shall be excluded the amount of the
16 earnings and profits which are attributable to in-
17 come from sources within the United States which
18 is effectively connected with the conduct by the con-
19 trolled foreign corporation of a trade or business
20 within the United States, except to the extent such
21 income is exempt from taxation (or subject to a re-
22 duced rate of tax) pursuant to a treaty obligation of
23 the United States. For purposes of the preceding
24 sentence, income described in paragraph (2) or (3)

1 of section 921(d) shall be treated as derived from
2 sources within the United States.

3 “(2) In determining earnings and profits (or
4 the deficit in earnings and profits), the amount of
5 any illegal bribe, kickback, or other payment (within
6 the meaning of section 162(c), except as otherwise
7 provided in this paragraph) shall not be taken into
8 account to decrease such earnings and profits or to
9 increase such deficit. The payments referred to in
10 the preceding sentence include payments which
11 would be unlawful under the Foreign Corrupt Prac-
12 tices Act of 1977 if the payor were a United States
13 person.

14 “(3) Under regulations prescribed by the Sec-
15 retary, there shall be excluded any part of any earn-
16 ings and profits if it is established to the satisfaction
17 of the Secretary that such part could not have been
18 distributed by the controlled foreign corporation to
19 United States shareholders who own (within the
20 meaning of section 958(a)) stock of such controlled
21 foreign corporation because of currency or other re-
22 strictions or limitations imposed under the laws of
23 any foreign country.

24 “(4) Earnings and profits shall be determined
25 without regard to paragraphs (4), (5), and (6) of

1 section 312(n). Under regulations, the preceding
2 sentence shall not apply to the extent it would in-
3 crease earnings and profits by an amount which was
4 previously distributed by the controlled foreign cor-
5 poration.

6 Except as provided in this subsection and section
7 312(k)(4), the earnings and profits of any foreign corpora-
8 tion, and the deficit and earnings and profits of any for-
9 eign corporation for any taxable year shall be determined
10 according to rules similar to those applicable to domestic
11 corporations, under regulations prescribed by the Sec-
12 retary.

13 “(b) CERTAIN DEFICITS MAY BE TAKEN INTO AC-
14 COUNT.—

15 “(1) TREATMENT OF CERTAIN PRIOR YEAR
16 DEFICITS.—

17 “(A) IN GENERAL.—The amount included
18 in the gross income of any United States share-
19 holder under section 951(a)(1)(A)(i) for any
20 taxable year with respect to any controlled for-
21 eign corporation shall be reduced by the amount
22 of such shareholder’s pro rata share of any
23 qualified deficit of such controlled foreign cor-
24 poration.

1 “(B) QUALIFIED DEFICIT.—For purposes
2 of this paragraph—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied deficit’ means any deficit in the earn-
5 ings and profits of the controlled foreign
6 corporation for any prior taxable year
7 which began after December 31, 1995, and
8 for which such corporation was a con-
9 trolled foreign corporation, but only to the
10 extent such deficit has not previously been
11 taken into account under this paragraph.

12 “(ii) SPECIAL RULE FOR DEFICITS
13 BEFORE 1996.—The term ‘qualified deficit’
14 includes any deficit in earnings and profits
15 for any taxable year beginning before Jan-
16 uary 1, 1996, to the extent that such defi-
17 cit qualified as a qualified deficit under
18 subsection (c)(1)(B) of this section (as in
19 effect on the day before the date of the en-
20 actment of this subsection); except that
21 any such deficit may be taken into account
22 under this paragraph only to offset
23 amounts attributable to the same activity
24 as the activity giving rise to such deficit.

1 “(C) PRO RATA SHARE.—For purposes of
2 this paragraph, the shareholder’s pro rata share
3 of any deficit shall be determined under rules
4 similar to the rules of section 951(a)(2) for
5 whichever of the following yields the smallest
6 share:

7 “(i) the close of the taxable year, or

8 “(ii) the close of the taxable year in
9 which the deficit arose.

10 “(2) CERTAIN DEFICITS OF MEMBER OF THE
11 SAME CHAIN OF CORPORATIONS MAY BE TAKEN
12 INTO ACCOUNT.—

13 “(A) IN GENERAL.—A controlled foreign
14 corporation may elect to reduce the amount of
15 its subpart F income for any taxable year by
16 the amount of any deficit in earnings and prof-
17 its of a qualified chain member for a taxable
18 year ending with (or within) the taxable year of
19 such controlled foreign corporation. To the ex-
20 tent any deficit reduces subpart F income
21 under the preceding sentence, such deficit shall
22 not be taken into account under paragraph (1).

23 “(B) QUALIFIED CHAIN MEMBER.—For
24 purposes of this paragraph, the term ‘qualified
25 chain member’ means, with respect to any con-

1 trolled foreign corporation, any other corpora-
2 tion which is created or organized under the
3 laws of the same foreign country as the con-
4 trolled foreign corporation but only if—

5 “(i) all the stock of such other cor-
6 poration (other than directors’ qualifying
7 shares) is owned at all times during the
8 taxable year in which the deficit arose (di-
9 rectly or through 1 or more corporations
10 other than the common parent) by such
11 controlled foreign corporation, or

12 “(ii) all the stock of such controlled
13 foreign corporation (other than directors’
14 qualifying shares) is owned at all times
15 during the taxable year in which the deficit
16 arose (directly or through 1 or more cor-
17 porations other than the common parent)
18 by such other corporation.

19 “(C) COORDINATION.—This paragraph
20 shall be applied after paragraph (1).

21 “(3) DETERMINATION OF DEFICIT.—In deter-
22 mining the amount of any deficit in earnings and
23 profits, the adjustments set forth in subsection (a)
24 shall apply.

1 **“SEC. 953. SPECIAL RULES FOR CERTAIN INSURANCE COM-**
2 **PANIES.**

3 “(a) SPECIAL RULE FOR CERTAIN CAPTIVE INSUR-
4 ANCE COMPANIES.—

5 “(1) IN GENERAL.—For purposes only of tak-
6 ing into account subpart F income which is attrib-
7 utable to related person insurance income—

8 “(A) the term ‘United States shareholder’
9 means, with respect to any foreign corporation,
10 a United States person (as defined in section
11 957(c)) who owns (within the meaning of sec-
12 tion 958(a)) any stock of the foreign corpora-
13 tion,

14 “(B) the term ‘controlled foreign corpora-
15 tion’ has the meaning given to such term by
16 section 957(a) determined by substituting ‘25
17 percent or more’ for ‘more than 50 percent’,
18 and

19 “(C) the pro rata share referred to in sec-
20 tion 951(a)(1)(A)(i) shall be determined under
21 paragraph (5) of this subsection.

22 “(2) RELATED PERSON INSURANCE INCOME.—
23 For purposes of this subsection, the term ‘related
24 person insurance income’ means any insurance in-
25 come (within the meaning of subsection (c)) attrib-
26 utable to a policy of insurance or reinsurance with

1 respect to which the person (directly or indirectly)
2 insured is a United States shareholder in the foreign
3 corporation or a related person to such a share-
4 holder.

5 “(3) EXCEPTIONS.—

6 “(A) CORPORATIONS NOT HELD BY
7 INSUREDS.—Paragraph (1) shall not apply to
8 any foreign corporation if at all times during
9 the taxable year of such foreign corporation—

10 “(i) less than 20 percent of the total
11 combined voting power of all classes of
12 stock of such corporation entitled to vote,
13 and

14 “(ii) less than 20 percent of the total
15 value of such corporation,

16 is owned (directly or indirectly) under the prin-
17 ciples of section 883(c)(4) by persons who are
18 (directly or indirectly) insured under any policy
19 of insurance or reinsurance issued by such cor-
20 poration or who are related persons to any such
21 person.

22 “(B) DE MINIMIS EXCEPTION.—Paragraph
23 (1) shall not apply to any foreign corporation
24 for a taxable year of such corporation if the re-
25 lated person insurance income (determined on a

1 gross basis) of such corporation for such tax-
2 able year is less than 20 percent of its insur-
3 ance income (as so determined) for such taxable
4 year determined without regard to those provi-
5 sions of subsection (c)(1) which limit insurance
6 income to income from countries other than the
7 country in which the corporation was created or
8 organized.

9 “(C) ELECTION TO TREAT INCOME AS EF-
10 FECTIVELY CONNECTED.—Paragraph (1) shall
11 not apply to any foreign corporation for any
12 taxable year if—

13 “(i) such corporation elects (at such
14 time and in such manner as the Secretary
15 may prescribe)—

16 “(I) to treat its related person in-
17 surance income for such taxable year
18 as income effectively connected with
19 the conduct of a trade or business in
20 the United States, and

21 “(II) to waive all benefits (other
22 than with respect to section 884) with
23 respect to related person insurance in-
24 come granted by the United States

1 under any treaty between the United
2 States and any foreign country, and
3 “(ii) such corporation meets such re-
4 quirements as the Secretary shall prescribe
5 to ensure that the tax imposed by this
6 chapter on such income is paid.

7 An election under this subparagraph made for
8 any taxable year shall not be effective if the
9 corporation (or any predecessor thereof) was a
10 disqualified corporation for the taxable year for
11 which the election was made or for any prior
12 taxable year beginning after 1986.

13 “(D) SPECIAL RULES FOR SUBPARAGRAPH
14 (C).—

15 “(i) PERIOD DURING WHICH ELEC-
16 TION IN EFFECT.—

17 “(I) IN GENERAL.—Except as
18 provided in subclause (II), any elec-
19 tion under subparagraph (C) shall
20 apply to the taxable year for which
21 made and all subsequent taxable years
22 unless revoked with the consent of the
23 Secretary.

24 “(II) TERMINATION.—If a for-
25 eign corporation which made an elec-

1 tion under subparagraph (C) for any
2 taxable year is a disqualified corpora-
3 tion for any subsequent taxable year,
4 such election shall not apply to any
5 taxable year beginning after such sub-
6 sequent taxable year.

7 “(ii) EXEMPTION FROM TAX IMPOSED
8 BY SECTION 4371.—The tax imposed by
9 section 4371 shall not apply with respect
10 to any related person insurance income
11 treated as effectively connected with the
12 conduct of a trade or business within the
13 United States under subparagraph (C).

14 “(E) DISQUALIFIED CORPORATION.—For
15 purposes of this paragraph the term ‘disquali-
16 fied corporation’ means, with respect to any
17 taxable year, any foreign corporation which is a
18 controlled foreign corporation for an uninter-
19 rupted period of 30 days or more during such
20 taxable year (determined without regard to this
21 subsection) but only if a United States share-
22 holder (determined without regard to this sub-
23 section) owns (within the meaning of section
24 958(a)) stock in such corporation at some time
25 during such taxable year.

1 “(4) TREATMENT OF MUTUAL INSURANCE COM-
2 PANIES.—In the case of a mutual insurance com-
3 pany—

4 “(A) this subsection shall apply,

5 “(B) policyholders of such company shall
6 be treated as shareholders, and

7 “(C) appropriate adjustments in the appli-
8 cation of this subpart shall be made under reg-
9 ulations prescribed by the Secretary.

10 “(5) DETERMINATION OF PRO RATA SHARE.—

11 “(A) IN GENERAL.—The pro rata share
12 determined under this paragraph for any
13 United States shareholder is the lesser of—

14 “(i) the amount which would be deter-
15 mined under paragraph (2) of section
16 951(a) if—

17 “(I) only related person insur-
18 ance income were taken into account,

19 “(II) stock owned (within the
20 meaning of section 958(a)) by United
21 States shareholders on the last day of
22 the taxable year were the only stock
23 in the foreign corporation, and

24 “(III) only distributions received
25 by United States shareholders were

1 taken into account under subpara-
2 graph (B) of such paragraph (2), or

3 “(ii) the amount which would be de-
4 termined under paragraph (2) of section
5 951(a) on the basis of the entire subpart
6 F income of the foreign corporation for the
7 taxable year.

8 “(B) COORDINATION WITH OTHER PROVI-
9 SIONS.—The Secretary shall prescribe regula-
10 tions providing for such modifications to the
11 provisions of this subpart as may be necessary
12 or appropriate by reason of subparagraph (A).

13 “(6) RELATED PERSON.—For purposes of this
14 subsection—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the term ‘related person’ has
17 the meaning given such term by section 964(a).

18 “(B) TREATMENT OF CERTAIN LIABILITY
19 INSURANCE POLICIES.—In the case of any pol-
20 icy of insurance covering liability arising from
21 services performed as a director, officer, or em-
22 ployee of a corporation or as a partner or em-
23 ployee of a partnership, the person performing
24 such services and the entity for which such

1 services are performed shall be treated as relat-
2 ed persons.

3 “(7) COORDINATION WITH SECTION 1248.—For
4 purposes of section 1248, if any person is (or would
5 be but for paragraph (3)) treated under paragraph
6 (1) as a United States shareholder with respect to
7 any foreign corporation which would be taxed under
8 subchapter L if it were a domestic corporation and
9 which is (or would be but for paragraph (3)) treated
10 under paragraph (1) as a controlled foreign corpora-
11 tion—

12 “(A) such person shall be treated as meet-
13 ing the stock ownership requirements of section
14 1248(a)(2) with respect to such foreign cor-
15 poration, and

16 “(B) such foreign corporation shall be
17 treated as a controlled foreign corporation.

18 “(8) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations as may be necessary to carry
20 out the purposes of this subsection, including—

21 “(A) regulations preventing the avoidance
22 of this subsection through cross insurance ar-
23 rangements or otherwise, and

24 “(B) regulations which may provide that a
25 person will not be treated as a United States

1 shareholder under paragraph (1) with respect
2 to any foreign corporation if neither such per-
3 son (nor any related person to such person) is
4 (directly or indirectly) insured under any policy
5 of insurance or reinsurance issued by such for-
6 eign corporation.

7 “(b) ELECTION BY FOREIGN INSURANCE COMPANY
8 TO BE TREATED AS DOMESTIC CORPORATION.—

9 “(1) IN GENERAL.—If—

10 “(A) a foreign corporation is a controlled
11 foreign corporation (as defined in section
12 957(a) by substituting ‘25 percent or more’ for
13 ‘more than 50 percent’ and by using the defini-
14 tion of United States shareholder under sub-
15 section (a)(1)(A) of this section),

16 “(B) such foreign corporation would qual-
17 ify under part I or II of subchapter L for the
18 taxable year if it were a domestic corporation,

19 “(C) such foreign corporation meets such
20 requirements as the Secretary shall prescribe to
21 ensure that the taxes imposed by this chapter
22 on such foreign corporation are paid, and

23 “(D) such foreign corporation makes an
24 election to have this paragraph apply and

1 waives all benefits to such corporation granted
2 by the United States under any treaty,
3 for purposes of this title, such corporation shall be
4 treated as a domestic corporation.

5 “(2) PERIOD DURING WHICH ELECTION IS IN
6 EFFECT.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), an election under paragraph
9 (1) shall apply to the taxable year for which
10 made and all subsequent taxable years unless
11 revoked with the consent of the Secretary.

12 “(B) TERMINATION.—If a corporation
13 which made an election under paragraph (1) for
14 any taxable year fails to meet the requirements
15 of subparagraph (A), (B), or (C) of paragraph
16 (1) for any subsequent taxable year, such elec-
17 tion shall not apply to any taxable year begin-
18 ning after such subsequent taxable year.

19 “(3) TREATMENT OF LOSSES.—If any corpora-
20 tion treated as a domestic corporation under this
21 subsection is treated as a member of an affiliated
22 group for purposes of chapter 6 (relating to consoli-
23 dated returns), any loss of such corporation shall be
24 treated as a dual consolidated loss for purposes of

1 section 1503(d) without regard to paragraph (2)(B)
2 thereof.

3 “(4) EFFECT OF ELECTION.—

4 “(A) IN GENERAL.—For purposes of sec-
5 tion 367, any foreign corporation making an
6 election under paragraph (1) shall be treated as
7 transferring (as the 1st day of the 1st taxable
8 year to which such election applies) all of its as-
9 sets to a domestic corporation in connection
10 with an exchange to which section 354 applies.

11 “(B) EXCEPTION FOR PRE-1988 EARNINGS
12 AND PROFIT.—

13 “(i) IN GENERAL.—Earnings and
14 profits of the foreign corporation accumu-
15 lated in taxable years beginning before
16 January 1, 1988, shall not be included in
17 the gross income of the persons holding
18 stock in such corporation by reason of sub-
19 paragraph (A).

20 “(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any dis-
21 tribution made by a corporation to which
22 an election under paragraph (1) applies
23 out of earnings and profits accumulated in
24 taxable years beginning before January 1,
25

1 1988, shall be treated as a distribution
2 made by a foreign corporation.

3 “(iii) CERTAIN RULES TO CONTINUE
4 TO APPLY TO PRE-1988 EARNINGS.—The
5 provisions specified in clause (iv) shall be
6 applied without regard to paragraph (1),
7 except that, in the case of a corporation to
8 which an election under paragraph (1) ap-
9 plies, only earnings and profits accumu-
10 lated in taxable years beginning before
11 January 1, 1988, shall be taken into ac-
12 count.

13 “(iv) SPECIFIED PROVISIONS.—The
14 provisions specified in this clause are:

15 “(I) Section 1248 (relating to
16 gain from certain sales or exchanges
17 of stock in certain foreign corpora-
18 tions).

19 “(II) This subpart to the extent
20 such subpart relates to earnings in-
21 vested in United States property or
22 amounts referred to in clause (ii) or
23 (iii) of section 951(a)(1)(A).

24 “(III) Section 884 to the extent
25 the foreign corporation reinvested

1 1987 earnings and profits in United
2 States assets.

3 “(5) EFFECT OF TERMINATION.—For purposes
4 of section 367, if—

5 “(A) an election is made by a corporation
6 under paragraph (1) for any taxable year, and

7 “(B) such election ceases to apply for any
8 subsequent taxable year,

9 such corporation shall be treated as a domestic cor-
10 poration transferring (as of the 1st day of such sub-
11 sequent taxable year) all of its property to a foreign
12 corporation in connection with an exchange to which
13 section 354 applies.

14 “(6) ADDITIONAL TAX ON CORPORATION MAK-
15 ING ELECTION.—

16 “(A) IN GENERAL.—If a corporation
17 makes an election under paragraph (1), the
18 amount of tax imposed by this chapter for the
19 1st taxable year to which such election applies
20 shall be increased by the amount determined
21 under subparagraph (B).

22 “(B) AMOUNT OF TAX.—The amount of
23 tax determined under this paragraph shall be
24 equal to the lesser of—

1 “(i) $\frac{3}{4}$ of 1 percent of the aggregate
2 amount of capital and accumulated surplus
3 of the corporation as of December 31,
4 1987, or

5 “(ii) \$1,500,000.

6 “(c) INSURANCE INCOME DEFINED.—For purposes
7 of this section, the term ‘insurance income’ means any in-
8 come which—

9 “(1) is attributable to the issuing (or reinsur-
10 ing) of any insurance or annuity contract—

11 “(A) in connection with property in, liabil-
12 ity arising out of activity in, or in connection
13 with the lives or health of residents of, a coun-
14 try other than the country under the laws of
15 which the controlled foreign corporation is cre-
16 ated or organized, or

17 “(B) in connection with risks not described
18 in subparagraph (A) as the result of any ar-
19 rangement whereby another corporation receives
20 a substantially equal amount of premiums or
21 other consideration in respect of issuing (or re-
22 insuring) a contract described in subparagraph
23 (A), and

24 “(2) would (subject to the modifications pro-
25 vided by paragraphs (1) and (2) of subsection (d))

1 be taxed under subchapter L of this chapter if such
2 income were the income of a domestic insurance
3 company.

4 “(d) SPECIAL RULES.—In determining the amount
5 of insurance income—

6 “(1) The following provisions of subchapter L
7 shall not apply:

8 “(A) The small life insurance company de-
9 duction.

10 “(B) Section 805(a)(5) (relating to oper-
11 ations loss deduction).

12 “(C) Section 832(c)(5) (relating to certain
13 capital losses).

14 “(2) The items referred to in—

15 “(A) section 803(a)(1) (relating to gross
16 amount of premiums and other considerations),

17 “(B) section 803(a)(2) (relating to net de-
18 crease in reserves),

19 “(C) section 805(a)(2) (relating to net in-
20 crease in reserves), and

21 “(D) section 832(b)(4) (relating to pre-
22 miums earned on insurance contracts),

23 shall be taken into account only to the extent they
24 are in respect of any reinsurance or the issuing of

1 any insurance or annuity contract described in sub-
2 section (a)(1).

3 “(3) All items of income, expenses, losses, and
4 deductions shall be properly allocated or apportioned
5 under regulations prescribed by the Secretary.”

6 (b) REPEAL OF EXPORT TRADE CORPORATION PRO-
7 VISIONS.—Subpart G of part III of subchapter N of chap-
8 ter 1 of such Code (relating to export trade corporations)
9 is hereby repealed.

10 (c) CONFORMING AMENDMENTS TO SUBPART F.—

11 (1) Subparagraph (A) of section 955(a)(1) of
12 such Code is amended by inserting “(as in effect for
13 taxable years beginning before 1987)” after “section
14 954(b)(2)”.

15 (2) Subsection (b) of section 955 of such Code
16 is amended by striking “within the meaning of sec-
17 tion 954(d)(3)” and inserting “within the meaning
18 of section 964(a)”.

19 (3) Paragraph (2) of section 956(c) of such
20 Code is amended—

21 (A) by striking “section 953(a)(1)” in sub-
22 paragraph (E) and inserting “section
23 953(c)(1)”, and

24 (B) by inserting “(as in effect on the day
25 before the date of the enactment of this par-

1 enhetical) or under section 952(a)(1)” after
2 “section 952(b)” in subparagraph (H).

3 (4) Subsection (b) of section 957 of such Code
4 is amended—

5 (A) by striking “income described in sec-
6 tion 953(a)” and inserting “subpart F income
7 attributable to income described in section
8 953(c)”, and

9 (B) by striking “section 953(a)(1)” and in-
10 serting “section 953(c)(1)”.

11 (5) Subsection (b) of section 958 of such Code
12 is amended—

13 (A) by striking “954(d)(3), 956(b)(2), and
14 957” and inserting “956(b)(2), 957, and
15 964(a)”, and

16 (B) by striking “954(d)(3)” the second
17 place it appears and inserting “964(a)”.

18 (6) Subsection (b) of section 959 of such Code
19 is amended by striking “be also included in the gross
20 income” and inserting “be also included in the sub-
21 part F income”.

22 (7) Subsection (a) of section 964 of such Code
23 is amended to read as follows:

1 “(a) RELATED PERSON.—For purposes of this part,
2 a person is a related person with respect to a controlled
3 foreign corporation, if—

4 “(1) such person is an individual, corporation,
5 partnership, trust, or estate which controls, or is
6 controlled by, the controlled foreign corporation, or

7 “(2) such person is a corporation, partnership,
8 trust, or estate which is controlled by the same per-
9 son or persons which control the controlled foreign
10 corporation.

11 For purposes of the preceding sentence, control means,
12 with respect to a corporation, the ownership, directly or
13 indirectly, of stock possessing more than 50 percent of the
14 total voting power of all classes of stock entitled to vote
15 or of the total value of stock of such corporation. In the
16 case of a partnership, trust, or estate, control means the
17 ownership, directly or indirectly, more than 50 percent (by
18 value) of the beneficial interests in such partnership, trust,
19 or estate. For purposes of this paragraph, rules similar
20 to the rules of section 958 shall apply.”

21 (8) Section 964 of such Code is amended by
22 striking subsection (b).

23 (9) The table of sections for subpart F of part
24 III of subchapter N of chapter 1 of such Code is

1 amended by striking the items relating to sections
2 952, 953 and 954 and inserting the following:

“Sec. 952. Subpart F income.

“Sec. 953. Special rules for certain insurance companies.”

3 (f) OTHER CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 552(c) of such
5 Code is amended—

6 (A) by amending subparagraph (A) to read
7 as follows:

8 “(A) is received from a related person
9 which (i) is a corporation created or organized
10 under the laws of the same foreign country
11 under the laws of which the foreign corporation
12 involved was created or organized, and (ii) has
13 a substantial part of its assets used in its trade
14 or business located in such same foreign coun-
15 try, and”, and

16 (B) by striking “954(d)(3)” and inserting
17 “964(a)”.

18 (2) Subparagraph (B) of section 861(c)(2) of
19 such Code is amended by striking “954(d)(3)” and
20 inserting “964(a)”.

21 (3) Subparagraph (A) of section 864(d)(5) of
22 such Code is amended by striking clauses (ii), (iii),
23 and (iv).

1 (4) Subparagraph (A) of section 881(c)(5) of
2 such Code is hereby repealed.

3 (5) Subparagraph (D) of section 884(d)(2) of
4 such Code is amended by striking “953(c)(3)(C)”
5 and inserting “953(a)(3)(C)”.

6 (6) Subparagraph (A) of section 898(b)(3) of
7 such Code is amended—

8 (A) by striking “953(c)(2)” and inserting
9 “953(a)(2)”, and

10 (B) by striking “953(c)(1) and inserting
11 “953(a)(1)”.

12 (7) Clause (i) of section 904(d)(2)(A) of such
13 Code is amended by inserting “, as in effect on the
14 day before the date of the repeal of such section”
15 after “section 954(c)”.

16 (8) Subclause (III) of section 904(d)(2)(C)(ii)
17 of such Code is amended by striking “953(a)” and
18 inserting “953(c)”.

19 (9) Subparagraph (D) of section 904(d)(2) of
20 such Code is amended—

21 (A) by inserting “, as in effect on the day
22 before the date of the repeal of such section”
23 after “954(f)”, and

24 (B) by inserting “or passive income” be-
25 fore the period at the end thereof.

1 (10) Subparagraph (H) of section 904(d)(2) of
2 such Code is amended by striking “954(d)(3)” and
3 inserting “964(a)”.

4 (11) Subparagraph (E) of section 904(d)(3) of
5 such Code is hereby repealed.

6 (12) Subparagraph (C) of section 988(a)(3) of
7 such Code is amended by striking “954(d)(3)” and
8 inserting “964(a)”.

9 (13) Subsection (c) of section 999 of such Code
10 is amended—

11 (A) by striking “, 952(a)(3),” in para-
12 graph (1), and

13 (B) by striking “, the addition to subpart
14 F income under section 952(a)(3),” in para-
15 graph (2).

16 (14) Subsection (a) of section 6046 of such
17 Code is amended by striking “953(c)” and inserting
18 “953(a)”.

19 (15) The table of subparts for part III of sub-
20 chapter M of chapter 1 of such Code is amended by
21 striking the item relating to subpart G.

22 (g) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years of controlled for-
24 eign corporations beginning after December 31, 1995, and
25 to the taxable years of United States shareholders with

1 which (or in which) such taxable years of controlled for-
2 eign corporations end.

3 **SEC. 9. EXTENSION OF STATUTE OF LIMITATIONS FOR CER-**
4 **TAIN FOREIGN-RELATED DEFICIENCIES.**

5 (a) GENERAL RULE—Subsection (c) of section 6501
6 of the Internal Revenue Code of 1986 (relating to limita-
7 tions on assessment and collection) is amended by adding
8 at the end thereof the following new paragraph:

9 “(10) CERTAIN FOREIGN-RELATED DEFICI-
10 CIENCIES.—

11 “(A) IN GENERAL.—If, before the expira-
12 tion of the time prescribed by this section for
13 the assessment of any foreign-related deficiency
14 (determined with regard to extensions under
15 paragraph (4))—

16 “(i) the Secretary determines that
17 such deficiency cannot be accurately as-
18 sessed before the expiration of such period
19 by reason of delay or other actions of the
20 taxpayer which prevented the timely as-
21 sessment of such deficiency, and

22 “(ii) The Secretary sends by certified
23 or registered mail a notice of such deter-
24 mination to the taxpayer,

1 the Secretary may extend the period during
2 which such deficiency may be assessed by an
3 additional period of not more than 3 years. Not
4 more than 1 extension may be made under the
5 preceding sentence with respect to any defi-
6 ciency.

7 “(B) FOREIGN-RELATED DEFICIENCY.—
8 For purposes of subparagraph (A), the term
9 ‘foreign-related deficiency’ means—

10 “(i) any deficiency of a domestic cor-
11 poration which is 25-percent foreign-owned
12 to the extent such deficiency is attributable
13 to a transaction directly or indirectly with
14 a related party who is a foreign person,
15 and

16 “(ii) any deficiency of a foreign cor-
17 poration with respect to the taxes imposed
18 pursuant to sections 882 and 884.

19 “(C) JUDICIAL PROCEEDINGS.—

20 “(i) REVIEW.—Notwithstanding any
21 law or rule of law, any taxpayer to which
22 a notice of a determination under subpara-
23 graph (A) has been mailed shall have the
24 right to begin a proceeding to review such
25 determination not later than the 90th day

1 after the day on which such notice was
2 mailed. If such a proceeding is not begun
3 on or before such 90th day, such deter-
4 mination by the Secretary shall be binding
5 and shall not be reviewed by any court.

6 “(ii) JURISDICTION.—The United
7 States district court for the district in
8 which the taxpayer resides or is found
9 shall have jurisdiction to hear any proceed-
10 ing brought under clause (i). Any order or
11 other determination in such a proceeding
12 shall be treated as a final order which may
13 be appealed.

14 “(iii) SUSPENSION OF STATUTE OF
15 LIMITATIONS.—If the taxpayer brings a
16 proceeding under clause (i), the running of
17 any period of limitations under this section
18 or section 6531 with respect to the defi-
19 ciency to which the proceeding relates shall
20 be suspended for the period beginning on
21 the date on which the notice under sub-
22 paragraph (A) was mailed and ending on
23 the date on which there is a final deter-
24 mination in the proceeding. In no event
25 shall any such period expire before the

1 90th day after the day on which there is
2 a final determination in such proceeding.

3 “(D) DEFINITIONS.—For purposes of this
4 paragraph, the terms ‘25-percent foreign-
5 owned’, ‘foreign person’, and ‘related party’
6 have the respective meanings given such terms
7 by section 6038A(c).”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to any deficiency—

10 (1) for any taxable year ending after the date
11 of the enactment of this Act, or

12 (2) any taxable year ending on or before such
13 date of enactment if the period during which such
14 deficiency may be assessed under section 6501 of the
15 Internal Revenue Code of 1986 (determined without
16 regard to the amendments made by subsection (a))
17 has not expired before such date of the enactment.

18 **SEC. 10. REDUCTION OF OUTSTANDING LOAN, GUARANTEE,**
19 **AND INSURANCE AUTHORITY OF THE EX-**
20 **PORT-IMPORT BANK OF THE UNITED STATES.**

21 (a) IN GENERAL.—Section 6(a) of the Export-Import
22 Bank Act of 1945 (12 U.S.C. 635e(a)) is amended by
23 striking “\$75,000,000,000” and inserting
24 “\$37,500,000,000”.

1 (b) AUTHORITY TO IMPOSE FINANCING FEES BASED
2 ON CREDIT RISK.—Section 2 of the Export-Import Bank
3 Act of 1945 (12 U.S.C. 635) is amended by adding at
4 the end the following:

5 “(f) IMPOSITION OF FINANCING FEES BASED ON
6 CREDIT RISK.—The Bank shall charge and collect a fee
7 for the provision of a guarantee, the provision of insur-
8 ance, the extension of credit, or the participation of the
9 Bank in an extension of credit, under this Act, which shall
10 be—

11 “(1) based on the credit risk associated with
12 the transaction involved; and

13 “(2) not less than the fee that would be
14 charged for similar purposes in an arms-length
15 transaction in the private sector.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on October 1, 1995.

18 **SEC. 11. ABOLITION OF OVERSEAS PRIVATE INVESTMENT**
19 **CORPORATION.**

20 (a) ABOLITION.—The Overseas Private Investment
21 Corporation is abolished, effective October 1, 1995.

22 (b) ADMINISTRATION OF EXISTING OBLIGATIONS.—
23 The Secretary of State shall carry out the functions per-
24 formed on September 30, 1995, by the Overseas Private
25 Investment Corporation only for purposes of administering

1 insurance, reinsurance, financing, and other contracts or
 2 agreements issued or entered into by the Corporation that
 3 are effective on October 1, 1995. Such functions shall ter-
 4minate when all such insurance, reinsurance, financing,
 5 and other contracts or agreements expire.

6 (c) TERMINATION OF PROVISIONS.—Title IV of chap-
 7ter 2 of part I of the Foreign Assistance Act of 1961 (22
 8 U.S.C. 2191 and following) shall cease to be effective on
 9 October 1, 1995, except that such title shall continue in
 10 effect with respect to the functions performed by the Sec-
 11retary of State under subsection (b).

12 (d) TERMINATION OF AFFAIRS.—The Director of the
 13 Office of Management and Budget shall take the nec-
 14essary steps to terminate the affairs of the Overseas Pri-
 15vate Investment Corporation.

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